

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 551 – SB 420

April 22, 2021

SUMMARY OF BILL: Enacts the *Essential Wages for Essential Workers Act*. Requires that each employer in this state pay each employee that is an essential worker a rate of not less than \$15.00 per hour for 40 hours of time worked per week and one and a half times such employee's essential hourly wage for each hour of time worked in excess of 40 hours in any week; provided that an employer is not required to pay the overtime rate to a person employed in a bona fide executive, administrative, or professional capacity. Requires that the essential hourly wage rate must increase to \$17.50 per hour on July 1, 2021, and to \$20 per hour on July 1, 2022. Overtime pay must increase proportionally.

Defines an essential worker as:

- (1) All classes and categories of workers defined as essential in state law or by executive order issued by the Governor or the executive head of a local government; and
- (2) All classes and categories of workers defined as essential as determined under guidance by the federal government, including, without limitation, the advisory memorandum titled Guidance on Essential Critical Infrastructure Workers, version 4.0, dated August 18, 2020, issued by the Cybersecurity & Infrastructure Security Agency within the United States Department of Homeland Security.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures –

Exceeds \$54,926,300/FY21-22

Exceeds \$72,299,700/FY22-23 and Subsequent Years

Exceeds \$10,000,000/FY21-22/Higher Education System

Exceeds \$18,000,000/FY22-23 and Subsequent Years/Higher

**Education
System**

Increase Local Expenditures – Exceeds \$8,000,000/FY21-22

Exceeds \$13,000,000/FY22-23 and Subsequent Years

Assumptions:

- The Department of Human Resources (DHR) reports a total of 18,472 current state employees in the executive branch that will require a wage increase as a direct result of this legislation.
- Number of executive branch employees affected by fiscal year, and the resulting increase in state expenditures:
 - FY21-22: 11,174 employees = \$54,926,313;
 - FY22-23: 18,472 employees = \$72,299,659.
- It is unknown how many judicial branch and legislative branch employees this legislation will impact.
- The University of Tennessee System, Locally Governed Institutions, and Tennessee Board of Regents Institutions will require additional expenditures for increase payroll and increased contract employee costs. The total recurring increase in state expenditures for institutions of higher education is reasonably estimated to exceed \$10,000,000 in FY21-22 and \$18,000,000 in FY22-23 and subsequent years.
- Given the extent of unknown factors, a precise impact estimate for local government expenditures is difficult to determine. However, and based on the estimated impact to state government expenditures, the mandatory recurring increase in local government expenditures is reasonably estimated to be as follows: FY21-22: exceeds \$8,000,000 in FY21-22 and \$13,000,000 in FY22-23 and subsequent years.
- The net impact to state and local government revenue is estimated to be not significant. This assumes additional state and local sales tax collections for state and local governments respectively as a result of impacted employees spending a higher wage within the economy; however, any such impact is assumed to be offset by other reductions in state and local tax collections occurring as a result of reduced net income for impacted business owners occurring as a result of paying higher wage expense.
- There will not be a sufficient number of minimum wage resolution cases for state or local government to experience any significant increase in revenue or expenditures.
- Based on a 2011 article in the Employee Rights and Employment Policy Journal entitled “Enforcement of State Minimum Wage and Overtime Laws: Resources, Procedures, And Outcomes,” the states of Georgia and Texas use the private right of action to enforce their state minimum wage laws.
- The provisions of the legislation do not specifically require DLWD to enforce or investigate minimum wage violations.
- For purposes of the fiscal note, it is assumed the private right of action, much in the same manner as Georgia and Texas, will be the enforcement mechanism for the provisions of the legislation.

IMPACT TO COMMERCE:

Increase Business Revenue –

Exceeds \$10,000,000/FY21-22

Exceeds \$15,000,000/ FY22-23 and Subsequent Years

Increase Business Expenditures –

Exceeds \$100,000,000/FY21-22

Exceeds \$150,000,000/FY22-23 and Subsequent Years

Jobs Impact – Net Impact - Unknown

Assumptions:

- The extent of any increased business expenditures is dependent upon several unknown factors such as the number of Tennessee business entities impacted by the legislation, the number of employees that will receive the pay increase, and the extent of any change in the number of hours that such employees work in a year, and whether the impacted businesses decide to reduce their total number of employees as a result of higher wage expenses. Given these unknown factors, determining a precise estimate for increased business expense is difficult. However, the cumulative and recurring increase in business expense for Tennessee businesses is reasonably estimated to exceed \$100,000,000 per year statewide in FY21-22 and at least \$150,000,000 statewide in FY22-23 and subsequent years.
- A portion of the additional wages paid to public and private sector employees as a result of this legislation will be spent in the Tennessee economy. As a result, other Tennessee businesses will experience an increase in business revenue as the additional income is spent in the Tennessee economy.
- The total amount of increased wages paid to public and private employees that will then be spent on new purchases from private businesses, in addition to what would have been spent in the absence of this legislation, is unknown; however, given that this legislation is estimated to increase wages by an amount exceeding \$100,000,000 in FY21-22 and at least \$150,000,000 statewide in FY22-23 and subsequent years, it is reasonably assumed that there will be a recurring increase in business revenue exceeding \$10,000,000 statewide in FY21-22 and \$15,000,000 in FY22-23 and subsequent years.
- Given that wage expenses will increase for some employers, this could result in some companies reducing their number of employees to account for the higher wages. However, the additional wages being spent in the economy may increase demand for goods and services within the economy, thereby increasing the number of jobs for other businesses. The net impact to the number of Tennessee jobs is considered unknown.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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